IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.4594 OF 2004

1. Mohanlal G Kukreja and anr. Petitioners.
Vs
1. M/s Beekay Enterprises and ors Respondents

Ms Gauri Godse i/b A.V.Jain Associate, for the petitioners.
None for the respondents, though served.

CORAM : D.B.BHOSALE,J.
DATE : 18.01.2007.

PC:

1. Heard Mr.Jain, learned counsel for the petitioners. None appears for the respondents, though served.

2. Rule. Rule made returnable forthwith. By consent, the petition is taken up for final disposal.

3. In this writ petition under Article 227 of the Constitution of India, the petitioners have challenged the order dated 10.2.2003, by which the notice taken out by the respondent-defendant no.1, has been made absolute. The operative part of the order reads thus:

> "Notice is made absolute.
> Execution of the decree is hereby stayed pending the hearing and final disposal of the appeal. The appellants are hereby directed to deposit on account Rs.50,000/- within 30 days from today

without prejudice to the rights and contentions of the parties.

Amount as and when deposited be retained in the court till the disposal of the appeal."

Ms Godse, learned counsel for the petitioners, submits that she has instructions to press this petition only in respect of the direction to deposit the amount of Rs.50,000/- only as against the direction of the trial Court to defendant no.1 to pay a sum of Rs.1,70,166/- towards the arrears of rent. She, therefore, submitted that the court below was wrong in directing to deposit Rs.50,000/- only when the arrears of rent are of Rs.1,70,166/-. It is true that the respondent has raised dispute about the quantum of arrears which, in my opinion, would be taken care of in the appeal. None appears for the respondents, though served. Keeping that in view and considering the overall facts and circumstances of the case, this petition stands disposed of by the following order.

(i) In addition to the direction given by the court below to deposit Rs.50,000/-, respondent no.1 shall furnish Bank guarantee of Rs.1,20,000/-, without prejudice to their rights and contentions in the appeal,

within four weeks from today and shall keep it alive till disposal of the appeal and for a period of four weeks thereafter if the appeal is allowed.

(ii) The appeal court shall endeavour to dispose of the appeal as expeditiously as possible and preferably within a period of six months from the date of receipt of this order. The petitioners are directed to produce a copy of this order before the appeal court within two weeks from today.

(ii) Rule accordingly stands disposed of.

(D.B.BHOSALE,J.)